

REMARKS/ARGUMENTS

Applicant responds herein to the Office Action dated September 7, 2006 .

The Office Action has been carefully considered. Claims 1 and 4-21 are pending in the present application with claim 1 being in independent form. A copy of the claims and the present status of each is submitted herewith for the convenience of the Examiner.

The Examiner indicates that the title of the invention is not descriptive and requests that it be amended. By the present Amendment, the title has been amended as suggested by the Examiner.

Claims 1, 5, 6, 8 and 9 have been rejected under 35 U.S.C. 103(a) as allegedly unpatentable over U.S. Patent No. 6,839,087 to Sato in view of U.S. Patent No. 5,194,960 to Ota. Reconsideration of this rejection is respectfully requested.

The Examiner contends that Sato discloses substantially all of the features of claim 1 of the present application. The Examiner concedes that Sato does not disclose “synthesizing means for synthesizing the information concerning a dynamic range with said first and second conditions for exposure acquired by said information acquiring means and a histogram arithmetic means for producing a histogram of the information synthesized by said information synthesizing means,” however, the Examiner indicates that Ota discloses this feature. The Examiner further argues that it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the information synthesizing means and histogram generating means of Ota with the analyzing means of Sato. Applicant respectfully disagrees.

Sato, as understood by Applicant, relates to an exposure controller for a digital camera using an image pickup device. A photometering sensor 52 is used to measure the brightness of an object to be photographed in order to determine an aperture size and an exposure time for the CCD. In Sato, during pre-exposure, the photometering device measures the brightness of the object under two different exposure timings. This information is used to provide a compensation factor and to generate a third exposure time under which the main exposure for taking the photograph is performed.

Ota relates to an optical image signal control device where a first preliminary exposure is performed in the center of an automatic exposure luminance range. Based on this information a

determination is made as to the total number of pixels recognized as white and the total number of pixels recognized as black. A second preliminary exposure is then performed based on whether there are more white or black pixels. Ota discloses that a value calculating means 22 provides a histogram to indicate whether there are more white or black pixels after the first preliminary exposure and second preliminary exposure.

Sato and Ota, however, fail to show or suggest “an analyzing means for analyzing the information acquired by said information acquiring means, including an information synthesizing means for synthesizing the information concerning a dynamic range with said first and second conditions for exposure acquired by said information acquiring means and a histogram arithmetic means for producing a histogram of the information synthesized by said information synthesizing means.”

The Examiner concedes that Sato does not disclose information synthesizing means and histogram arithmetic means but contends that Ota discloses these features. While Sato does disclose a value calculating means 22 that provides histograms after the first and second exposures, there is no disclosure in Sato of “producing a histogram of the information synthesized by said information synthesizing means.” In contrast, in Sato, histograms are produced after the first exposure and then after the second exposure, such that each histogram is based on information from one of the exposures, and is not based on a synthesis of this information. See Sato, Column 13, line 46 to Column 14, line 5.

Accordingly, it is respectfully submitted that claim 1, and the claims depending therefrom, including claims 5, 6, 8 and 9, are patentable over the cited art for at least the reasons described above.

Claim 4 has been rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Sato in view of Ota and further in view of U.S. Patent No. 6,850,642 to Wang. Reconsideration of this rejection is respectfully requested.

Claim 4 depends from claim 1. As noted above, claim 1 is believed to be patentable over Sato and Ota for at least the reasons described above. Further, it is respectfully submitted that claim 1 is patentable over Sato, Ota and Wang, since Sato, Ota and Wang, either alone or in combination, fail to show or suggest the patentable features of claim 1 described above.

Accordingly it is respectfully submitted that claim 1, and the claims depending therefrom, including claim 4, are patentable over the cited art for at least the reasons discussed above.

Claim 7 has been rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Sato in view of Ota and further in view of U.S. Patent No. 4,647,975, to Alston et al.

Reconsideration of this rejection is respectfully requested.

Claim 7 depends from claim 1. As noted above, claim 1 is believed to be patentable over Sato and Ota for at least the reasons described above. Further, it is respectfully submitted that claim 1 is patentable over Sato, Ota and Alston et al., since Sato, Ota and Alston et al., either alone or in combination, fail to show or suggest the patentable features of claim 1 described above.

Accordingly it is respectfully submitted that claim 1, and the claims depending therefrom, including claim 7, are patentable over the cited art for at least the reasons discussed above.

Claims 10 -19 have been rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Sato in view of Ota and further in view of U.S. Patent No. 5,929,908 to Takahashi et al.

Reconsideration of this rejection is respectfully requested.

Claims 10-19 depend from claim 1, either directly or indirectly. As noted above, claim 1 is believed to be patentable over Sato and Ota for at least the reasons described above. Further, it is respectfully submitted that claim 1 is patentable over Sato, Ota and Takahashi et al., since Sato, Ota and Takahashi et al., either alone or in combination, fail to show or suggest the patentable features of claim 1 described above.

Accordingly it is respectfully submitted that claim 1, and the claims depending therefrom, including claims 10-19, are patentable over the cited art for at least the reasons discussed above.

Claims 20-21 have been rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Sato, Ota, Takahashi et al. and Alston et al. Reconsideration of this rejection is respectfully requested.

Claims 20-21 depend indirectly from claim 1. As noted above, claim 1 is believed to be patentable over Sato and Ota for at least the reasons described above. Further, it is respectfully submitted that claim 1 is patentable over Sato, Ota, Takahashi et al. and Alston et al., since Sato,

Ota, Takahashi et al. and Alston et al., either alone or in combination, fail to show or suggest the patentable features of claim 1 described above.

Accordingly it is respectfully submitted that claim 1, and the claims depending therefrom, including claims 20-21, are patentable over the cited art for at least the reasons discussed above.

In light of the remarks and amendments made herein, it is respectfully submitted that claims 1 and 4-21 are patentable over the cited art and are in condition for allowance.

Accordingly, the Examiner is respectfully requested to reconsider the application, allow the claims and pass this case to issue.

THIS CORRESPONDENCE IS BEING
SUBMITTED ELECTRONICALLY
THROUGH THE UNITED STATES
PATENT AND TRADEMARK OFFICE
EFS FILING SYSTEM
ON NOVEMBER 24, 2006

Respectfully submitted,



MAX MOSKOWITZ
Registration No.: 30,576
OSTROLENK, FABER, GERB & SOFFEN, LLP
1180 Avenue of the Americas
New York, New York 10036-8403
Telephone: (212) 382-0700